IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Fellenstein et al.** §	
§	Group Art Unit: **2143**
Serial No.: **10/626,194** §	
§	Examiner: **Fearer, Mark D.**
Filed: **July 24, 2003** §	
§	
For: **Method and System for** §	
Identification and Presentation of §	
Statistical Usage Data for Managing	
Systems	

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PATENT TRADEMARK OFFICE
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REPLY BRIEF (37 C.F.R. 41.41)

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This Reply Brief is submitted in response to the Examiner's Answer mailed on June 23, 2008.

No fees are believed to be required to file a Reply Brief. If any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447.

RESPONSE TO EXAMINER'S ANSWER

In Section 10 of the Examiner's Answer, the examiner responded to appellant's arguments by explaining his interpretation of the cited references. However, in providing an interpretation of the cited references, appellant submits that the examiner does not show that the references teach or disclose the elements of claim 1, and that the Examiner's Answer fails to explain how at least the following element is found in the cited art:

> wherein the statistical usage data is adapted to allow the end user to determine a best
> time to contact the target user for a messaging session by providing a plurality of data
> regarding the target user's times for signing in and signing out, the target user's average
> time signed on each day, and the target user's messages sent and received.

The above element, when its' terms are construed in light of the entire claim, distinguishes over Matsliach et al., Monza et al., and Tamir et al., individually or in combination, for at least three reasons. First, they do not disclose data gathered as specified in the element. The data that is gathered comprises "the target user's times for signing in and signing out, the target user's average time signed on each day, and the target user's messages sent and received." Second, they do not disclose the use specified in the element. The use specified is "to determine a best time to contact the target user for a messaging session." Claim 1 specifies that "messaging system events" are detected and recorded in a database, the statistical usage data is compiled from these events, and the usage data is displayed. Third, they do not disclose the result specified in the element. The result achieved is that the displayed data allows the user to determine "a best time to contact the target user."

The Examiner's Section 10 Remarks Regarding Matsliach et al.

In regard to Matsliach et al., the examiner stated that in column 3, lines 24-24, Matsliach et al. discloses tracking user internet activity and usage and saving the information to a central server. Appellant believes that the examiner made a typographical error in this cite to Matsliach et al. Matsliach et al. discloses detecting which web pages are being currently viewed and then obtaining information about other users who are accessing the same web page. (Matsliach et al. 3:47-50). Claim 1 is not directed to "user internet activity" but to a messaging system. The term "messaging system" is a defined term in the specification meaning "any means of transmitting an electronic message from one user to another." Sending electronic messages from one user to another is a different activity from accessing web pages and obtaining information about others who are accessing the same web page.

The examiner further stated that in column 3, lines 48-61, Matsliach et al. discloses a 'method of an individual user querying a central system to determine [an] other user's activity." The examiner stated that he interprets this as an end user using a database to obtain information about a target user. Appellant submits that the examiner has not shown an end user and a target user in *a messaging system* because Matsliach et al. is directed to web page visits. Moreover, identifying a user who is accessing the same web page is not the same as someone that a user wants to contact in a messaging system. Claim 1 is clear in specifying that the goal of the end user is to determine a best time for a *messaging session* with the target user. Therefore, a person who is also accessing a web page cannot be a target user as that term is used in claim 1 because the end user would not have a desire to contact that person until after he learned that the "target user" was accessing the same web page. Claim 1 recites that the end user want to contact another known user in the *messaging system.*

Next, the examiner states that in column 6, lines 62-64, Matsliach et al. discloses a central server maintaining data about a user's activity during a predetermined number of days. The examiner stated that he interpreted this as event data regarding a user's time signed on each day. Once again the examiner cites to a reference that does not disclose a messaging system and the data gathered in Matsliach et al. would be of no use for the result achieved by claim 1. Matsliach et al. is directed to web page visits and the reference has nothing to do with when a participant in a messaging system is available.

In addition, the examiner states that in column 7, lines 19-22, Matsliach et al. discloses a Buddy List and a log of users with whom the user has recently communicated. The examiner stated that he interpreted this as an end user directed at a target user. Appellant submits that the disclosed Buddy List does not disclose an end user and a target user as specified in claim 1 where the goal is to find a best time to contact the target user for a messaging session. The Buddy List information disclosed in Matsliach et al. is directed to a user data to be kept on the user's computer in conjunction with disclosure to another who accesses the same web page.

The examiner stated that in column 7, lines 53-65, Matsliach et al. discloses a method of displaying demographic statistics on a bargraph histogram. The examiner stated that he interpreted this as statistical data usage. Appellant submits that such statistical data does not teach or disclose the data specified in claim 1 because the statistics are not directed to activity in a messaging system. Rather the usage is for a user and others who are accessing the same web page, and such statistical information would be of no use in the messaging system of claim 1 to achieve the result specified in claim 1—i.e.to find a best time for a messaging session.

The examiner stated that in column 10, lines 62-67 and column 11 lines 1-3, Matsliach et al.

discloses a method of recording start and stop times of a user's internet activity. The examiner stated that he interpreted this as event data regarding a user's times for signing in and signing out. Appellant submits that signing in and out for internet activity is not the same as signing in and out of a messaging system, and could not be used for the specified purpose of claim 1—to identify a best time for a messaging session.

The examiner stated that in column 13, lines 18-30, Matsliach et al. discloses logging a target user's message on a server. The examiner stated that he interpreted this as logging user activity in a database. The examiner further stated that in column 13, lines 45-52, Matsliach et al. defines server 10 as a database for storing user information. Matsliach et al. discloses notifying a user when another wants to establish a chat session and then the user is notified and a chat session is established. But the chat session notice is provided as part of the sotftware which is identifying other users accessing the same web site as the user. Indeed, the specification states "[i]t should be noted that the chat session, as well as other means of communication (e.g. file transfer and URL transfer) is preferably established directly between the two users without involvement of the web server which the two users are visiting." In other words, Matsliach et al. merely refers to making notification available while the users are active in the process directed to monitoring web activity. It is nothing more than a prior art chat session. The information gathered in Matsliach et al. is not linked to, or useful for, determining a best time for a messaging session based on the type of data described in claim 1.

Finally, the examiner's conclusory statements regarding how a person skilled in the art would be led by Matsliach et al. fail for the reasons set forth above.

The Examiner's Section 10 Remarks Regarding Monza et al.

The examiner stated that Monza et al. discloses a method for providing adaptive and proactive interaction management for multiple types of business interactions occurring in a multimedia communications environment. Specifically, in paragraph [0068], the examiner states that "Monza et al. discloses a self learning component that 'learns' through historical data, what the most successful contact media types are and when the best times are to initiate contact." Appellant submits that "contact media types" are not the same as electronic messages in messaging system. Moreover, Monza et al. [0068] discloses that "over time, the system learns what the most successful proactive media types are and when the best times are to initiate contact. Monza et al. is not directed to gathering data specific to a "messaging system."

The examiner stated that Monza et al. discloses a method that stores content interaction between

media types. The examiner cited Monza et al. [0160]. The examiner stated that he interpreted this as event data regarding a user's messages sent and received. He further stated that the teachings of Matsliach et al. combined with the teachings of Monza et al. would have led a person of ordinary skill in the art to derive a "plurality of data regarding the target user's times for signing in and signing out, the target user's average time signed on each day, and the target user's messages sent and received," and also to derive "recording data regarding an end user in a database." Monza et al. discloses storing "live voice, interactive text based, or asychronous messaging" results, but the storing is part of process directed gathering information as part of a business process, and is not directed to a "messaging system."

The Examiner's Section 10 Comments Regarding Tamir et al.

The examiner stated that Tamir et al. discloses a method for providing dynamic information to a user via a visual display. Specifically, in column 8, lines 20-34, Tamir et al. discloses a server system that can identify a set of messages that a user will view and that records a login time of said user. The examiner stated that he interpreted this as data regarding a user's messages and data regarding a user's times for signing in. But Tamir et al. is directed to client server communications—i.e. communications between computers, and not to individuals communicating in a messaging system. For example, Tamir et al. at 8:27-32 states that "by comparing the user's Country Code 74 with country codes associated with different messages and web sites, the server system can identify which set of messages or web sites a user will view, and the language in which the user will view them." While messages are mentioned, the activity is directed to recording usage in a server client computer relationship. The relationship is made even clearer in the discussion below.

The examiner stated that in column 8, lines 43-54, Tamir et al. discloses a method of recording a session-start and a session-end, identifying when a client-server communication occurred. The examiner stated that he interpreted this as event data regarding a user's times for signing in and signing out. The cited portion of Tamir et al. discloses a "User Session Record." But Tamir et al. specifically states that "the Record is used by the server system for functions that include tracking and recording user sessions with the server system" and "[t]here is one Session Record per application per session." Tamir et al. discloses that "using the Session Start 304 and Session End 306, the server system can also determine what times the user and application began and completed *the client server session*." The server system can determine statistics regarding session duration and peak time of use for both user and client. But such disclosure does not address statistics of users within a messaging system.

The examiner stated that in column 9, lines 13-23, Tamir et al. discloses a method of analyzing user and client statistics, including average user session duration. The examiner stated that he interpreted

this as statistical data usage and event data regarding a user's average time signed on. But Tamir et al. specifically states that "the Record is used by the server system for functions that include tracking and recording user sessions with the server system" and "[t]here is one Session Record per application per session." Tamir et al. discloses that "using the Session Start 304 and Session End 306, the server system can also determine what times the user and application began and completed *the client server session.*" The server system can determine statistics regarding session duration and peak time of use for both user and client. But such disclosure does not address statistics of users within a messaging system.

The examiner stated that in claim 5, Tamir et al. discloses a user computer processing data or prior usage history. The examiner stated that he interpreted this as a usage processor compiling statistical usage data. But claim 5 is directed to recording and displaying a user's activity in regard to a first web site and a second web site.

The examiner stated that the teachings of Tamir et al. disclose a user computer processing data of prior usage history. The examiner stated that he interpreted this as a usage processor compiling statistical usage data. The teachings of Matsliach et al. combined with the teachings of Monza et al. and Tamir et al. would have led a person of ordinary skill in the art to derive "a usage processor to compile the target user's statistical usage data from the messaging system events in the database." Although the examiner states "messaging system events," the examiner has yet to disclose a reference that is directed to a "messaging system." Moreover, Tamir et al. is directed to sessions between a client computer and a server computer.

The examiner states that Tamir et al. discloses "a system that logs client specifics comprising average session duration and begin and complete times." Specifically, the examiner states that Tamir et al. reads on the claimed "providing a plurality of data regarding the target user's times for signing in and signing out, the target users average time signed on each day,...." But Tamir et al. is directed to computer communications regarding applications running on a server computer. For example, Tamir et al. col. 9:13-23 states:

> Using the Session Start 304 and Session End 306, the server system can also determine what times the user and application began and completed the client-server session. The server system can thereby determine user-specific statistics including the user session duration and peak time of use, as well as client-specific statistics including client session duration and peak time of use.

The examiner further stated that "it would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate logging session times as taught by Tamir et al. with tagging customer preferences as taught by Matsliach et al., as modified by Monza et al., for the purpose of statistical data

analysis." But Tamir et al. discloses capturing data regarding use of a server or server application and has nothing to do with messaging systems. Tamir et al. is not a proper reference because the data acquired has nothing to do with interactive messaging. Moreover, the examiner has not established obviousness in regard to data as claimed for the use specified in claim 1.

CONCLUSION

Matsliach et al., Monza et al., and Tamir et al.—singly or in combination—do not disclose each element of appellant's independent claims as represented by claim 1. Moreover, the references do not render the claims obvious because the examiner has not shown that a person skilled in the art would be properly led to combine the references in the manner specified in the claims.

Respectfully submitted,

/Rudolf O. Siegesmund/

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